

REOPENING OF TERMINATED MEDICAL BENEFITS

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LABOR & INDUSTRY

TODAY'S DISCUSSION

- Why a Reopening Process?
- Elephant in the Room
- Project Status - Current & Proposed
- Important Definitions
- Important Timeline Requirements
- Process
- Dispute Resolution



WHY A REOPENING PROCESS?

- **HB334 Termination of Benefits** - medical benefits for a work related injury and occupational disease terminate 60 months after the date of injury or diagnosis.
 - Effective July 1, 2011
 - Codified in Section 39-71-704 (1)(f)
- **HB334 Reopening Process** – a worker can petition to have medical benefits reopened.
 - Medical condition is a direct result of the compensable injury or occupational disease
 - Benefits requested will allow the worker to continue to work or return to work
 - Codified in Section 39-71-717



ELEPHANT IN THE ROOM

- Fiscal Note
- How many Petitions we expect
- Cost
- Elephant
 - One petition
 - Broad view



PROJECT STATUS – CURRENT & PROPOSED

- **Business Process**
 - Draft is complete
 - Finalized by December 31, 2015
- **Administrative Rules**
 - Draft sent to interested parties September 17, 2015
 - Available online at <http://erd.dli.mt.gov/work-comp-claims/medical-regulations>
 - Possible published date is October 29, 2015
 - Possible hearing date is November 19-20, 2015
 - Goal Rules take effect January 1, 2015
- **Data Tracking of Reopening Petitions**
 - Estimated go live/completion is December 15-30, 2015
- **RFP for Contractor for Medical Reviews**
 - Issued July 30, 2015
 - Closed September 9, 2015
 - Notification of Interviews September 30, 2015
 - Interviews on October 16, 2015
 - Estimated Contract Award October 19, 2015



IMPORTANT DEFINITIONS

- Accepted Petition – petition has been evaluated by the department and was found to be eligible to be considered for medical review
- Filed – petition has been accepted and the 60 day process for review begins
- Returned – the petition has been evaluated by the department and found to be incomplete
- Dismissed – petition has been evaluated by the department and was found to be ineligible to be considered for medical review
- Approved – the medical review has been performed and medical benefits reopened as specified in the report
- Denied – the medical review has been performed and the medical benefits were not reopened
- Periodic Review – a review required every two years by the panel or medical director on whether recommendations previously made should continue or be changed.

IMPORTANT TIMELINE REQUIREMENTS

○ Injured Worker

- No sooner than 90 days prior to the 60 month closure
- Up to 5 years from the date of the termination of medical benefits

○ Department

- 60 days from accepting the petition
- Will issue a report making a recommendation to leave closed or reopen medical benefits
 - Provide rationale
 - Supported by majority of the panel members
 - If reopened, state the extent to which benefits are reopened consistent with Montana U & T Guidelines

○ Insurer

- 14 days to provide medical records
- Will proceed forward with review w/o medical records if not received
- Our goal is to notify the Insurer the same day as filed



PROCESS

- The Petition
- Petition Review
- Report to the Parties
- Periodic Review



PROCESS – THE PETITION

- **IW completes the petition (department form)**
 - Unless listed as optional, all fields must be completed
 - IW may submit supporting documentation with petition
 - Choose Medical Director or Medical Director and Panel
 - Choose Joint Petition
 - Note: Separate Petition Form
 - Delivers to the department less than 90 days prior or 5 years after date of closure (10 years from date of injury)
 - One petition per claim
- **Department reviews and assigns a status**
 - Dismissed as ineligible for a medical review
 - Returned as petition was not complete
 - Accepted / Filed
- **Once petition filed**
 - Insurance Carrier has 14 days to supply the medical records
 - IW has 14 days to submit additional information pertinent to the review



PROCESS – PETITION REVIEW

All Reviews and Consults are paper only reviews. No physical exam.

○ Medical Director Review

- Both parties must consent
- Cannot be revoked
- Insurance Carrier consent must be received by the 14-day deadline to submit medical records and additional information or medical panel review will automatically occur
- Non-physician consults if needed

○ Medical Panel Review

- Department medical director serves as one of three panel members
- Physicians must be licensed to practice in Montana
- Non-physician consults if needed
- Decision is a majority of the Medical Panel (at least 2 of the 3)

○ Joint Petition Review

- Medical director will summarily approve, because the parties agree



PROCESS – REPORT TO PARTIES

- Following Each Review
- Completed by the Medical Director
 - Approved, with recommendations as to the nature and extent of the medical benefits that should be provided by the insurer, or
 - Denied, with a recommendation that no further medical benefits should be provided by the insurer

PROCESS – PERIODIC REVIEW

- Only applicable if benefits are reopened for a period longer than 2 years
- Review will be based on original information and subsequent information received
- The prior report and recommendation regarding medical benefits is presumed to be correct
- Insurer and IW requested to provide new medical and additional information they want considered
 - Department request information 120 days prior
 - IW and insurer have 45 days to provide information
- Medical Director will make the determination unless
 - Medical director believes the determination should be changed and the original decision was made by the full medical panel
 - Medical Director has 14 days to determine if Medical Panel needed
 - Medical Panel has 45 days to complete review
- Report to the Parties



DISPUTE RESOLUTION

- Mediation
- Workers' Compensation Court



QUESTIONS



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